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the same act be a violation of both a state and federal court, and accused in the state court can show that before that there has been a prosecution or proceeding against him under a federal statute for the same act, the prosecution in the state court is barred, but a proceeding in federal court after the beginning of a prosecution in the state court will not bar the prosecution in the state court.

2. Criminal Law (§ 100 (3)*)—Court First Taking Jurisdiction of Prosecution Has Right to Conclude.—The court which first takes jurisdiction of a criminal prosecution has priority and the right to conclude the specific litigation.

Error to Circuit Court, Dickenson County.

D. C. Owens was convicted of a violation of the Prohibition Act, and brings error. Affirmed.

A. A. Skeen, of Clintwood, for plaintiff in error.

The Attorney General and Jno. R. Saunders, of Richmond, for the Commonwealth.

STEPHEN PUTNEY SHOE CO., Inc. *v.* ORMSBY'S ADM'R

Jan. 20, 1921.

[105 S. E. 563.]

1. Municipal Corporations (§ 706 (5)*)—Evidence Held to Establish Negligence in Driving Motor Truck.—In an action for death of a pedestrian struck by defendant's motortruck, evidence held to establish the negligence of defendant.

2. Municipal Corporations (§ 705 (10)*)—Decedent Killed by Motortruck Negligence in Stepping from Sidewalk.—Pedestrian killed when struck by defendant's motorman held negligence in leaving sidewalk and going on the street without looking before stepping from the curb.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 386.]

3. Municipal Corporations (§ 705 (10)*)—Last Clear Chance Held Not to Apply to Case of Death from Motortruck.—Doctrine of last clear chance held not to apply to case of pedestrian who left sidewalk without looking and in the street was struck and killed by defendant's motortruck.

Error to Law and Equity Court of City of Richmond.

Action by Ormsby's administrator against the Stephen Putney Shoe Company, Incorporated. To review judgment for plaintiff, defendant brings error. Reversed.

S. A. Anderson and *A. G. Collins*, both of Richmond, for plaintiff in error.

Geo. E. Haw, of Richmond, for defendant in error.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.